

## **FY 2008 Annual Program Performance Measures**

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**DEPARTMENT:** MICHIGAN DEPARTMENT OF LABOR & ECONOMIC GROWTH

**APPROPRIATION UNIT:** Michigan Tax Tribunal      **PROGRAM:** Michigan Tax Tribunal

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**TIMELINE:** October 1, 2007 through September 30, 2008

### **PROGRAM MISSION STATEMENT**

We will provide all citizens with the opportunity to resolve state and local tax disputes at a fair and impartial hearing and to receive a timely written, quality decision that is based on the evidence submitted and the law.

### **PROGRAM STATEMENT**

The Tribunal is a Type 1 administrative court. (See MCL 205.721.) Like other courts, the Tribunal conducts hearings and renders written decisions based on the evidence properly submitted by all parties. The Tribunal has original and exclusive jurisdiction over property tax matters (i.e., valuations, special assessments, principal residence exemptions, qualified agricultural exemptions, etc.). (See MCL 205.731.) The Tribunal also has jurisdiction over non-property tax matters (i.e., assessments levied by the Michigan Department of Treasury), but shares its jurisdiction over non-property tax matters with the Ingham County Circuit Court in its capacity as the Court of Claims. (See MCL 205.22.)

NOTE: The Tribunal is divided into two divisions - the Entire Tribunal and the Small Claims Division. Any and all cases over which the Tribunal has subject matter jurisdiction may be filed in the Entire Tribunal, with the exception of principal residence and qualified agricultural exemption appeals. (See MCL 205.731, 211.7cc, and 211.7ee.) Only certain cases may be filed in the Small Claims Division. (See MCL 205.762.)

### **FUND SOURCE:**

State Restricted Fees

### **LEGAL BASIS:**

Public Act 186 of 1973 (MCL 205.701 through 205.800)  
Rules of Practice and Procedure (R 205.1101 through R 205.1348)

### **CUSTOMER IDENTIFICATION:**

Customers – taxpayers; government officials, both state and local  
Stakeholders – the Governor, the Legislature, and various associations representing customers and their attorneys or agents (i.e., Michigan Assessors' Association, Michigan Township Association, Michigan Municipal League, State Bar of Michigan, Michigan Association of Certified Public Accountants, etc.)

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### CRITICAL GOALS/MAJOR OBJECTIVES

#### Program Goals:

1. We will shorten the time frame from initial filing to resolution by –
  - a. Improving the processing of appeals to increase the number of scheduled prehearing conferences and hearings.

<b>Highlight Status</b> Gr Green	<b>Comment:</b> The Tribunal implemented a new procedure to process appeals in 2007 – the “proposed scheduling order,” or “PSO.” We recently met with stakeholders to discuss whether they preferred the PSO process or the general call process that was previously used. The majority of stakeholders, and all of the Tribunal staff, believe that the PSO process slowed the processing of appeals and requested to return to a general call procedure. The Tribunal will be returning to this process in FY09.
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- b. Improving the management of individual caseloads to reduce the time frames for the rendering of decisions.

<b>Highlight Status</b> Gr Green	<b>Comment:</b> We continue to work to meet this goal. The caseload of each Tribunal judge is tracked and support staff is assigned when necessary or as requested.
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2. We will improve our customers' perception of the Tribunal as an impartial, professional, and hard-working legal body with specialized knowledge.

<b>Highlight Status</b> Gr Green	<b>Comment:</b> We continue to work on this goal through participation in meetings with stakeholders to discuss the Tribunal's vision and by conducting classes on Tribunal practice and procedure.
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3. We will improve tracking of appeal processing, issuing of reports and management of caseloads and customer relations to facilitate compliance with Tribunal goals.

<b>Highlight Status</b> Gr Green	<b>Comment:</b> We monitor the processing and resolution of appeals and allocate additional staff to address processing issues, as needed. We meet with judges monthly to discuss caseloads and assign support staff for assistance, as needed or requested. We respond to telephone and e-mail contacts and written correspondence to the extent permitted by MCL 205.725. Telephone and e-mail contacts are typically handled the same day, while written correspondence is handled within one week of receipt.
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### Processes/Services

The Tribunal processes and services are being improved through our participation in programs relating to trial court operations and disposition standards and communication with our customers and stakeholders regarding these and other issues.

PROGRAM EFFECTIVENESS (Current Year)

#### Program Goals/Metrics

See **attached** examples (Table A and Table B).

#### Performance Measures

Timeliness, Accuracy, and Customer Satisfaction as applied to: the processing of appeals and the rendering of decisions.

#### Program Improvements Made

- Tribunal *List Serve* – The Tribunal maintains a List Serve to inform its customers and stakeholders of recent decisions, changes in procedures, and to respond to customer concerns. The List Serve is issued as needed. With over 817 organizations and other entities becoming subscribers, the Tribunal's List Serve reaches thousands of taxpayers, tax practitioners and stakeholders.
- Tribunal Website – The Tribunal maintains a website that contains a variety of information regarding the Tribunal. We are currently working to update and streamline the website.
- Tribunal Notices – The Tribunal developed a public notice to inform the public of changes in its practices and to clarify its interpretation of the Tribunal Administrative Rules. The notice is sent electronically and posted on its website. Public comment is solicited and is the source for a number of the Tribunal Notices.
- Student Program – The Tribunal expanded its student program to include an active work-study and an externship program. Graduates from the student program have received employment at a number of law and accounting firms in the area of state and local tax.
- Tribunal Legislation – Several amendments to the Tax Tribunal Act were enacted in FY08. One amendment authorizes the Tribunal to certify mediators. We are currently working on the rules to implement this process.
- Adequate Telephone Equipment – We revised our telephone answering and menu system to speed up customer assistance and eliminate unrelated telephone inquiries.
- New Employee – We received approval to hire one of our students who recently received an LLM in tax. This person will be trained in all aspects of the Tribunal with the goal of being able to assume greater responsibilities as Tribunal employees retire.

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### **Internal Processes:**

#### Human Resources:

- Employee Meetings – We conduct staff meetings and meetings with Tribunal judges to discuss proposed changes and the progress of implemented changes.
- Management Meetings – We conduct meetings with executive staff, administrative support staff, and clerical staff to discuss management and processing issues, targets, case assignments, and staff utilization.
- Process Manual – We have an on-going review of internal procedures and processing standards. We continue to update a manual that identifies current internal procedures, processing standards and steps to implement these procedures.

### **PROGRAM IMPROVEMENT PLAN FOR FY09:**

#### **Stakeholder Services:**

- We will be meeting with several sections of the Michigan State Bar in February to discuss new procedures and the Tribunal's caseload, and to hear any concerns that stakeholders may have.
- We expect to have revised administrative rules approved and implemented in FY09. These rules will address a variety issues, including mediation.

#### **Internal Processes:**

- We will be returning to the general call process for scheduling prehearings. This change is expected to expedite processing of appeals.

- **Human Resources:**

Employee Evaluations – We continue to evaluate individual job functions to improve performance criteria for each employee.

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### CHALLENGES FACING THE TRIBUNAL:

- Caseload Increase – The number of small claims cases filed during the 2007-08 fiscal year was 11,566. This is the largest number of small claims cases filed in a single year since the 1993-94 fiscal year; in other words, since enactment of Proposal A. Moreover, this is more than a 2,100 case increase over the previous fiscal year and the sixth highest year ever. In FY07, the number of cases filed increased by approximately 3,400 from FY06. The number of entire tribunal cases filed during the 2007-08 fiscal year was 4,501. This is the largest number of entire tribunal cases ever filed, and an increase of 1,500 cases over FY07.
- Backlog increase – At the end of the 2006-07 fiscal year, there were 12,896 pending small claims cases. Of these, 11,640 were active. (Cases are not active if there is a stipulation pending in that case, if the case is in abeyance, if the case has been consolidated, etc.) At the end of the 2007-08 fiscal year, this number had increased to 16,998 pending cases, of which 15,752 cases were active.

At the end of the 2006-07 fiscal year, there were 6,724 pending entire tribunal cases. Of these, 4,473 were active cases. At the end of the 2007-08 fiscal year, the number of pending cases increased to 8,455, while the number of active cases increased to 6,460.

- Fees not increased since 1974 – The Tax Tribunal has never had a fee increase; the fees that were established in the Tribunal's original administrative rules remain in place.
- Staffing below necessary level – The Tax Tribunal currently has 11 support staff, including the Deputy Chief Clerk. There is also one vacant position. These 11 people are responsible for performing all of the Tribunal's clerical and administrative support functions, including answering the telephone, opening the mail, entering information on the Tribunal's case docketing system, mailing forms, copying opinion and judgments and mailing them, preparing a courtroom for a hearing, proofreading documents, scheduling hearings, filing, etc.

Each small claims case initially involves, at a minimum, five documents. This means that during the last fiscal year, the three staff members who are assigned to the small claims division were expected to process approximately 57,800 documents (19,300 each) during "filing season" (a matter of a few months). At the same time, these three people were required to make corresponding entries in the Tribunal's docketing system. Because it was physically impossible to complete this work, overtime was approved for these employees. This significantly increased productivity and reduced the amount of time necessary to process a case.

Similarly, each entire tribunal case initially involves, at a minimum, four documents. This means that during the last fiscal year, the two staff members who are assigned to the entire tribunal division were expected to process approximately 18,000 documents and to make corresponding docket entries during filing season. Again, because it was physically impossible for staff to complete this work, overtime was authorized with corresponding results.

Even if the one vacant position is filled, there simply is not enough staff to process the work in a timely manner. This would be the situation even if filings were not at record highs.

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Moreover, it is increasingly difficult to attract and retain qualified people to be Tribunal members. This is particularly true for the Assessor and Appraiser positions. The Tax Tribunal statute requires that one member of the Tribunal be a level IV assessor. (MCL 205.722) Salaries paid to level IV assessors are typically much higher than that paid to Tribunal members. Additionally, Tribunal members are paid less than the Chief Clerk and the administrative law judges whose work they oversee.

- Succession planning – During the last two years, the Tribunal has made a concerted effort to cross-train staff so that more than one person can perform any one function. Without this ability, certain work would not be performed during vacations, illnesses and staff turnovers.

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TABLE A  
Small Claims Filings/Dispositions

FISCAL YEAR	Property Appeals	PRE & Qualified Ag	Non-property Appeals	TOTAL FILINGS	Decisions	Dismissals & Withdrawals	Consent Judgments	Total Dispositions	Pending Appeals*
07-08 (As of 9.30.08)	10,343	910	313	11,566	1,811	4,221	1,497	7,529	16,998
06-07 (As of 9.30.07)	8,336	652	420	9,408	1,183	2,610	889	4,682	12,896
05-06 (As of 9.30.06)	4,926	804	309	6,039	1,691	3,105	980	5,776	7,987
04-05 (As of 9.30.05)	4,671	1,036	288	5,995	892	3,431	1,088	5,411	7,488
03-04 (As of 9.30.04)	4,066	1,771	343	6,180	1,174	3,420	741	5,335	6,439
02-03 (As of 9.30.03)	5,453	295	318	6,066	1,092	3,608	603	5,303	6,669
01-02 (As of 9.30.02)	5,215	402	305	5,922	1,356	3,781	1,023	6,160	9,717
00-01 (As of 9.30.01)	6,001	579	417	6,997	1,809	4,132	1,915	7,856	3,840
99-00 (As of 9.30.005)	4,163	397	422	4,982	1,297	2,628	701	4,626	2,832
98-99 (As of 9.30.99)	5,427	740	506	6,673	1,904	5,698	1,664	9,266	4,664
97-98 (As of 9.30.98)	4,958	1,118	448	6,524	998	4,518	2,350	7,866	7,263
96-97 (As of 9.30.97)	6,767	N/A	313	7,080	N/A	N/A	N/A	7,814	N/A
95-96 (As of 9.30.96)	N/A	N/A	N/A	7,149	N/A	N/A	N/A	N/A	N/A
94-95 (As of 9.30.95)	7,860	N/A	334	8,194	N/A	N/A	N/A	N/A	N/A
93-94 (As of 9.30.94)	13,746	N/A	491	14,237	7,919	14,874	5,616	28,409	5,616
92-93 (As of 9.30.93)	27,331	N/A	361	27,692	4,837	3,977	2,019	10,833	2,019
91-92 (As of 9.30.92)	4,782	N/A	181	4,963	3,578	6,857	3,001	13,436	3,001
90-91 (As of 9.30.91)	15,609	N/A	203	15,812	1,877	8,345	1,040	11,262	1,040
89-90 (As of 9.30.90)	8,180	N/A	340	8,520	928	1,434	596	2,958	596
88-89 (As of 9.30.89)	7,781	N/A	452	8,233	2,006	3,869	927	6,802	927
87-88 (As of 9.30.88)	6,952	N/A	452	7,404	3,080	4,323	891	8,294	891
86-87 (As of 9.30.87)	5,513	N/A	438	5,951	2,141	4,050	737	6,928	737
85-86 (As of 9.30.86)	4,961	N/A	390	5,351	1,987	2,502	769	5,258	769
84-85 (As of 9.30.85)	5,159	N/A	175	5,334	3,551	4,514	1,071	9,136	1,071
83-84 (As of 9.30.84)	5,312	N/A	224	5,536	2,469	4,401	1,067	7,937	1,067
82-83 (As of 9.30.83)	8,191	N/A	556	8,747	2,773	7,166	1,741	11,680	1,741
81-82 (As of 9.30.82)	13,675	N/A	382	14,057	2,237	1,040	1,166	4,443	1,166
80-81 (As of 9.30.81)	7,248	N/A	501	7,749	2,881	4,534	1,056	8,471	1,056
79-80 (As of 9.30.80)	7,275	N/A	8	7,283	1,809	2,775	724	5,308	724
78-79 (As of 9.30.79)	4,080	N/A	50	4,130	2,111	1,907	606	4,624	606
77-78 (As of 9.30.78)	4,566	N/A	529	5,095	3,320	3,776	743	7,839	743
76-77 (As of 9.30.77)	N/A	N/A	N/A	16,559	N/A	N/A	N/A	14,926	N/A
75-76 (As of 9.30.76)	N/A	N/A	N/A	4,806	N/A	N/A	N/A	5,520	N/A
74-75 (As of 9.30.75)	N/A	N/A	N/A	6,086	N/A	N/A	N/A	5,174	N/A

\* Pending appeals through FY 04 represent "active" pending cases. Thereafter, this number includes all pending cases.

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TABLE B

### Entire Tribunal Filings/Dispositions

FISCAL YEAR	Property Appeals	Non-Property Appeals	TOTAL FILINGS	Decisions	Consent Judgments & Withdrawals		Dismissals	TOTAL DISPOSITIONS
					CJs	WDs		
07-08 (As of 9.30.08)	4,394	107	4,501	37	1,807	851	215	2,910
06-07 (As of 9.30.07)	2,912	101	3,013	70	1,622	957	414	3,063
05-06 (As of 9.30.06)	2,746	125	2,871	86	2,292	N/A	931	3,309
04-05 (As of 9.30.05)	2,131	86	2,217	74	1,552	N/A	974	2,600
03-04 (As of 9.30.04)	1,886	70	1,956	62	1,143	N/A	1,265	2,470
02-03 (As of 9.30.03)	2,380	65	2,445	29	591	N/A	843	1,463
01-02 (As of 9.30.02)	1,592	69	1,661	39	702	N/A	811	1,552
00-01 (As of 9.30.01)	1,168	130	1,298	70	1,098	N/A	1,081	2,249
99-00 (As of 9.30.05)	1,286	108	1,394	36	649	N/A	784	1,469
98-99 (As of 9.30.99)	2,077	132	2,209	48	613	N/A	766	1,427
97-98 (As of 9.30.98)	2,727	112	2,839	32	675	N/A	510	1,217
96-97 (As of 9.30.97)	3,409	102	3,511	N/A	N/A	N/A	N/A	1,502
94-95 (As of 9.30.95)	1,293	101	1,394	N/A	N/A	N/A	N/A	N/A
93-94 (As of 9.30.94)	2,460	175	2,635	332	N/A	N/A	1,034	4,054
92-93 (As of 9.30.93)	2,186	136	2,322	70	N/A	N/A	590	1,915
91-92 (As of 9.30.92)	1,412	165	1,577	139	N/A	N/A	694	2,145
90-91 (As of 9.30.91)	2,355	182	2,537	102	N/A	N/A	689	1,674
89-90 (As of 9.30.90)	1,966	95	2,061	40	N/A	N/A	294	884
88-89 (As of 9.30.89)	1,368	166	1,534	98	N/A	N/A	346	1,137
87-88 (As of 9.30.88)	1,130	201	1,331	233	N/A	N/A	558	1,296
86-87 (As of 9.30.87)	930	145	1,075	70	N/A	N/A	148	271
85-86 (As of 9.30.86)	669	232	901	110	N/A	N/A	485	1,268
84-85 (As of 9.30.85)	863	190	1,053	96	N/A	N/A	652	1,760
83-84 (As of 9.30.84)	1,186	334	1,520	83	N/A	N/A	506	1,452
82-83 (As of 9.30.83)	1,222	333	1,555	118	N/A	N/A	580	1,598
81-82 (As of 9.30.82)	1,711	274	1,985	138	N/A	N/A	403	1,357
80-81 (As of 9.30.81)	1,244	229	1,473	89	N/A	N/A	301	1,015
79-80 (As of 9.30.80)	1,323	5	1,328	143	N/A	N/A	340	1,099
78-79 (As of 9.30.79)	711	58	769	110	N/A	N/A	231	859
77-78 (As of 9.30.78)	746	137	883	75	N/A	N/A	277	895
76-77 (As of 9.30.77)	N/A	N/A	543	N/A	N/A	N/A	N/A	388
75-76 (As of 9.30.76)	N/A	N/A	1,414	N/A	N/A	N/A	N/A	983
74-75 (As of 9.30.75)	N/A	N/A	1,499	N/A	N/A	N/A	N/A	911